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TRANSFER OF BRIDGE ADMINISTRATION PROGRAM

AUGUST 23, 1982.—Ordered to be printed

COMPLETED 8

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 6520 which on May 27, 1982 was referred jointly to the Committees on Merchant Marine and Fisheries and Public Works and Transportation]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 6520) to transfer the authority of the Secretary of Transportation under the Act commonly known as the Truman-Hobbs Act to the Secretary of the Army, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass

The amendment is as follows:

Strike everything after the enacting clause and insert in lieu thereof the following:

That:

(a) There are hereby transferred to and vested in the Secretary of the Army, acting through the Chief of Engineers, all functions, powers, and duties of the Secretary of Transportation under the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", enacted June 21, 1940 (54 Stat. 497 · 33 U.S.C. 511 et seq.).

(b) Section 6(g)(3) of the Department of Transportation Act is repealed.

SEC. 2. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the Secretary of Transportation or by any official of the Department of Transportation, or by a court of competent jurisdiction, in the performance of functions, powers, and duties which are transferred under this Act, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary of the Army, acting through the Chief of Engineers or other authorized officials, by a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before

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the Department of Transportation at the time this Act takes effect, except that such proceedings and applications, to the extent that they relate to functions, powers, and duties transferred by this Act, shall be continued before the Department of the Army. Orders shall be issued in such proceedings by the Secretary of the Army, acting through the Chief of Engineers, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary of the Army, acting through the Chief of Engineers or other authorized officials, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) Except as provided in subsection (d), no suit, action, or other proceeding commenced prior to the effective date of this Act and no cause of action arising prior to the effective date of this Act, by or against the Department of Transportation or by or against any officer thereof in his official capacity, shall abate or otherwise be affected by reason of the enactment of this Act.

(d) If, before the date on which this Act takes effect, the Department of Transportation, or officer thereof in his official capacity, is a party to a suit involving a function, power, or duty transferred under this Act, then such suit shall be continued with the Secretary of the Army or other official of the Department of the Army, as the case may be, substituted.

SEC. 3. The positions, assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions, powers, and duties transferred by this Act, subject to section 202 of the Budget and Accounting Procedure Act of 1950, are hereby transferred to the Secretary of the Army for appropriate allocation. Unexpended funds transferred pursuant to this Act shall only be used for the purposes for which the funds were originally authorized and appropriated.

SEC. 4. Nothing in this Act shall relieve the owner of a bridge to be altered under the provisions of the Act of June 21, 1940 of the requirement, under any other law, to obtain approval from the Secretary of Transportation of the location and plans for the bridge, before alteration of the bridge commences.

SEC. 5. This Act shall take effect one year after the date of enactment of this Act.

PURPOSE OF THE LEGISLATION

The purpose of the bill is to transfer the Truman-Hobbs bridge alteration program from the Coast Guard to the Army Corps of Engineers through an amendment to the Department of Transportation Act (80 Stat. 931; 49 U.S.C. 1651–1652).

The Army Corps administered the Truman-Hobbs program from 1940 until 1967. In 1967, the Department of Transportation Act transferred the bridge alteration responsibility to the Coast Guard. The effect of H.R. 6520 would be to transfer the Truman-Hobbs program back to the Army Corps of Engineers.

The legislation would transfer to the Secretary of the Army, acting through the Chief of Engineers, all functions, powers, and duties of the Secretary of Transportation under the act commonly known as Truman-Hobbs and formally entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", enacted June 21, 1940 (54 Stat. 497; 33 U.S.C. 511 et seq.). Also transferred are all positions, assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds in connection with the program for appropriate allocation by the Army Corps.

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In addition, the bill provides that bridge owners are not relieved by this legislation of obligations under other statutes to obtain Coast Guard approval of the location and plans for a bridge.

Background

The Truman-Hobbs Act (Sec. 511–525 of Title 33, U.S. Code) was passed in 1940 to help defray the costs to railroad bridge owners for bridge alterations made necessary by needs of navigation. Under Truman-Hobbs, federal funds would be provided for that portion of an alteration made necessary by navigational needs on U.S. waterways, while the bridge owner would pay for any actual improvements made to the bridge. Before the Truman-Hobbs Act, necessary alterations were financed wholly by bridge owners. River navigations was considered of primary importance under the constructs of the Bridge Act of 1906, which held that no bridge erected over navigable waters should at any time unreasonably obstruct the free navigation of a waterway.

The Truman-Hobbs bridge alteration program was originally administered by the Army Corps of Engineers. Army Corps waterway improvement projects themselves influenced the nature of river navigation through the widening and deepening of channels, for example, which allowed for the passage of larger ships, and which in turn required higher and wider clearances. It was felt that a portion of the improvement should be funded by the federal government, since the bridge had originally been designed and constructed in compliance with federal permitting approval. The Act was amended in 1952 to include public highway bridges among those eligible for alteration under its provisions.

The Coast Guard was given responsibility for the administration of bridges over navigable waters with the establishment of the Department of Transportation in 1967. Under its bridge administration program, the Coast Guard carried out, and still maintains, four functions: bridge permitting, bridge lighting, regulation of drawbridges, and bridge alteration approval. Bridge permitting ensures that bridge construction or modification will not interfere with necessary navigation clearances; drawbridge regulation ensures that closed bridges will not unfairly obstruct river traffic; and under the bridge alteration program, the Coast Guard administers funds to assist in bridge alterations if a bridge is determined to be obstructive. Under the Truman-Hobbs program, the Coast Guard has ordered 18 bridges altered, the same number of bridges previously altered under the Army Corps' administration of the funds.

During its oversight process, the Subcommittee on Coast Guard and Navigation determined that the Coast Guard's bridge alteration program might more sensibly be administered by the Army Corps of Engineers. The Coast Guard believes that bridges which have become obstructive due simply to the changing nature of navigation have all been altered at this point; many of these bridges were railroad structures built around the turn of the century. The cost/benefit analyses of bridges most recently investigated by the Coast Guard for possible modification have not indicated a significant need for

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alteration, and in the future, the Coast Guard believes it will be unlikely for a bridge to become obstructive because of changes in the nature of navigation except as a result of Army Corps waterway improvement projects. According to the Department of Transportation's Roles and Missions Study of the Coast Guard, most of the obstructive bridges over principal navigable waterways have been removed or modified under Truman-Hobbs.

Proponents of the need to continue the Truman-Hobbs program maintain that: (1) obstructive bridges still exist—only the method of determining eligibility for Truman-Hobbs funding has changed; (2) bridges will still require alteration in the future, with or without Corps of Engineers waterway improvements; and (3) equity should compel some level of Federal assistance in federally-ordered reconstruction or alteration of bridges designed and constructed with Federal approval.

In some cases, it has been charged that bridges which would have been more appropriately altered by the Corps of Engineers as part of its waterway improvement projects have been altered by the Coast Guard under the Truman-Hobbs program. In recognition of the fact that many, if not all, future bridge alterations will be necessitated by Corps of Engineers waterway improvement projects, the Truman-Hobbs program might more appropriately be administered by that agency.

Consideration was given to offering the text of the bill as an amendment to H.R. 5617, the Coast Guard authorization bill for fiscal year 1983. It was not offered at that time, however, in deference to the Committee on Public Works and Transportation, to whom H.R. 6520 was also referred.

Committee Action

H.R. 6520 was introduced on May 27, 1982, by the Hon. Gerry E. Studds for himself and for Mr. Jones of North Carolina, Mr. Young of Alaska, Mr. Breaux, and Mr. Tauzin.

Hearings

The Subcommittee on Coast Guard and Navigation held a hearing on the proposed bill on June 17, 1982, receiving testimony from Rear Admiral Richard Bauman, Chief of the Office of Navigation, U.S. Coast Guard; Major General E. R. Heiberg III, Director of Civil Works, Chief of Engineers, Department of the Army; and the Honorable Arlan Stangeland of Minnesota.

Admiral Bauman concurred with the Roles and Missions Study recommendation that the Truman-Hobbs Act should be repealed as having outlived its usefulness. If repeal is not possible, the Admiral stated that transfer to the Army Corps would be practical and that the Truman-Hobbs functions could be separated from the Coast Guard's other bridge functions. Admiral Bauman asked the Subcommittee to make it clear that a transfer of the program should not be interpreted as a lessening of the Coast Guard's other legal authority to approve the location and plans of all bridges, including those to be altered or relocated under the Truman-Hobbs Act. The Admiral also suggested

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that the word "positions" be included in the list of transferred program assets to indicate that civilian personnel involved in program administration would also be transferred.

General Heiberg said that since the issue of which agency should have responsibility for the Truman-Hobbs program is still under review within the Administration, the Department of the Army opposes the transfer. He deferred to the views of the Department of Transportation with respect to the wisdom of repealing the cost-sharing provisions of Truman-Hobbs.

A third witness, Representative Arlan Stangeland, presented testimony concerning H.R. 3411, a bill which would transfer domestic icebreaking responsibilities, vessel anchorage responsibilities, the bridge administration program, and the aids to navigation programs from the Coast Guard to the Army Corps.

Subcommittee Action

The Subcommittee on Coast Guard and Navigation met on July 28, 1982, and, after adopting an amendment in the nature of a substitute, acted by voice vote to approve H.R. 6520 and report it to the full Merchant Marine and Fisheries Committee for further action.

The substitute language adopted by the Subcommittee was designed to clarify or eliminate certain ambiguous language contained in the bill, as introduced. At the Coast Guard's suggestion, "positions" were added to the list of program assets transferred in section 3. A new section 4 was also added in response to the Coast Guard's request that it be made clear that a bridge owner is not relieved under this legislation of any obligation under other statutes to obtain Coast Guard approval of location and plans for a bridge. The Subcommittee did not intend, by this section, to require any action or mandate any procedure not already required or mandated by law. In addition, the Subcommittee strongly encourages the Coast Guard and the Army Corps of Engineers to cooperate in minimizing paperwork and permitting delays faced by those seeking approvals under federal bridge statutes.

Full Committee Action

The full Merchant Marine and Fisheries Committee met and approved H.R. 6520, without further amendment and by voice vote, on August 3, 1982.

Section-by-Section Analysis

Section 1

Transfers the responsibility for administration of the Truman-Hobbs bridge alteration program from the Coast Guard to the Army Corps of Engineers, the agency which administered the program from its inception in 1940 until 1967. The Truman-Hobbs program provides for Federal funding to alter railroad and public highway bridges which are deemed obstructive to navigation.

Section 2

Requires that the Army Corps of Engineers (1) continue in effect the rules and regulations now governing the program; (2) enforce

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orders the Coast Guard has issued under the Truman-Hobbs Act; and (3) honor contracts the Coast Guard has issued under the Truman-Hobbs Act, unless and until they are modified in accordance with the law by the Army Corps of Engineers. This section also requires that suits filed by or against the Coast Guard under the Truman-Hobbs Act will be continued by the Army Corps of Engineers.

Section 3

Transfers the program's assets of all description from the Coast to the Army Corps of Engineers.

Section 4

States that a bridge owner is not relieved under this legislation of any obligation under other laws to obtain approval from the Secretary of Transportation of the location and plans for any bridge to be altered.

Section 5

Provides that the transfer of the Truman-Hobbs program from the Coast Guard to the Army Corps of Engineers shall occur one year after the date of enactment of this Act.

Compliance With Clause 7, Rule XIII

In accordance with paragraph (d) of this clause, the provisions of this clause do not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office has been prepared and included in the report.

Compliance With Clause 2(l)(4), Rule XI (Inflationary Impact Statement)

This legislation provides for the transfer of the Truman-Hobbs Bridge Alteration program from the United States Coast Guard to the Army Corps of Engineers. This is not expected to result in any increase in the cost of administering this program to the Federal Government, nor is it expected that any inflationary impact on prices and costs in the operation of the national economy will be experienced.

Compliance With Clause 2(l)(3), Rule XI

(a) During the course of 1981, the Subcommittee on Coast Guard and Navigation held a comprehensive series of oversight hearings on all phases of Coast Guard operations and procedures. These hearings resulted in the preparation and release of an oversight report entitled "Semi-Paratus: The United States Coast Guard, 1981."

This oversight report included the following two recommendations related to the Truman-Hobbs bridge alteration program:

1. The Subcommittee recommends that the cost of bridge alteration be borne by those who directly benefit, not by the federal government.

2. Congress should work with the Administration to review seriously the possibility of returning the Bridge Administration program to the Army Corps of Engineers.

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(b) The requirements of section 308(a) of the Congressional Budget Act are not applicable to this legislation.

(c) The Committee on Merchant Marine and Fisheries has received no report from the Committee on Government Operations containing oversight findings or recommendations arrived at pursuant to clause 2(B)(2) of Rule X of the Rules of the House of Representatives.

(d) The director of the Congressional Budget Office has furnished the Committee with an estimate and comparison of cost for H.R. 6520, pursuant to section 403 of the Congressional Budget Act of 1974. The submission is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 6, 1982.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6520, a bill to transfer the authority of the Secretary of Transportation under the Act commonly known as the Truman-Hobbs Act to the Secretary of the Army, as ordered reported by the House Committee on Merchant Marine and Fisheries, August 3, 1982.

Under the Coast Guard's alteration of bridges program, the U.S. government assumes a share of the costs for altering or removing bridges determined to be obstructions to navigation. This bill transfers the authority and responsibility for bridge alteration from the Coast Guard back to the Army Corps of Engineers, where the program was originally administered from 1940 until 1967.

Based on review of the program it is expected that there would be no additional cost to the federal government as a result of this bill. Costs of the alteration of bridges programs would simply transfer from the Department of Transportation to the Army Corps of Engineers.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

DEPARTMENTAL REPORT

H.R. 6520 has been referred to the Department of Transportation and the Department of the Army for reports. No reports have been returned to the Committee.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman):

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Department of Army; functions, powers, and duties of Secretary of Army relating to water vessel anchorages, drawbridge operating regulations, obstructive bridges, tolls, prevention of pollution of sea by oil, and location and clearance of bridges and causeways on navigable waters

(g) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under—

(1) the following law and provisions of law relating generally to water vessel anchorages:

(A) Section 7 of the Act of March 4, 1915, as amended (38 Stat. 1053; 33 U.S.C. 471).

(B) Article 11 of section 1 of the Act of June 7, 1897, as amended (30 Stat. 98; 33 U.S.C. 180).

(C) Rule 9 of section 1 of the Act of February 8, 1895, as amended (28 Stat. 647; 33 U.S.C. 258).

(D) Rule numbered 13 of section 4233 of the Revised Statutes, as amended (33 U.S.C. 322).

(2) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

[(3) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (54 Stat. 497; 33 U.S.C. 511 et seq.).]

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